ATTORNEY FOR APPELLANT:

JUNE E. BULES
Plymouth, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

SCOTT L. BARNHART
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

IVAN I. GROSSMAN, JR.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 50A03-0607-CR-315
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARSHALL SUPERIOR COURT
The Honorable Robert O. Bowen, Judge
Cause No. 50D01-0508-FA-5

January 24, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Ivan I. Grossman, Jr., appeals his conviction of Child Molesting,[1] a class A felony, and presents the following restated issue: Was his sentence inappropriate?

We affirm.

The facts favorable to the conviction are brief. In August 2005, forty-two-year-old Grossman had vaginal intercourse with a four-year-old victim. As a result, the victim suffered a four-centimeter tear to her vagina that required hospitalization and surgical repair. Thereafter, the State charged Grossman with child molesting and subsequently alleged him to be an habitual offender. Grossman pleaded guilty to child molesting as a class A felony in exchange for which the State dropped the habitual offender allegation. Sentencing was left to the trial court's discretion. At the conclusion of the sentencing hearing, the trial court sentenced Grossman to fifty years. Grossman now appeals.

Grossman contends his sentence is inappropriate. Pursuant to Indiana Appellate Rule 7(B), we may revise a sentence authorized by statute if, after due consideration of the trial court's decision, we find the sentence is inappropriate in light of the nature of the offense and the offender's character. *Reyes v. State*, 848 N.E.2d 1081 (Ind. 2006). Regarding the nature of the offense, the advisory sentence is the starting point the General Assembly has selected as an appropriate sentence for the crime committed. *Id.* The advisory sentence for a class A felony is thirty years. I.C. § 35-50-2-4. In certain cases, the nature of the offense may justify an advisory sentence, *Reyes v. State*, 848 N.E.2d 1081, but such is not the case here because the crime was particularly sadistic.

[1] Ind. Code Ann. § 35-42-4-3 (West 2004).

Grossman, then forty-two years old, had vaginal intercourse with a four-year-old victim in the victim's grandmother's house. *See Francis v. State*, 817 N.E.2d 235, 238 (Ind. 2004) ("[a]lthough the age of the victim has been taken into account to some extent by the fact that the offense is a [c]lass A felony, the young age of the [six-year-old] victim is an aggravating circumstance"). As a result of Grossman's criminal act, the young victim required surgery and hospitalization.

As for Grossman's character, he has a lengthy and pertinent criminal history. The presentence investigation report reflects Grossman has four prior felony convictions, five prior misdemeanor convictions, and twice violated his probation. Additionally, Grossman's brother testified, and Grossman concedes, that he has a prior class A felony child molestation conviction for molesting a three-year-old. In spite of his extensive record, Grossman asserts the trial court should have identified his criminal history as mitigating because he did not have a criminal conviction for approximately ten years. Grossman, however, fails to cite authority in support of that proposition, and, in fact, we have endorsed a contrary position. *See Frey v. State*, 841 N.E.2d 231, 235 (Ind. Ct. App. 2006) ("'[w]here a defendant seeks to diminish the relevance of a criminal record by emphasizing its remoteness . . ., [that] factor [does not] preclude[] the trial court from using such prior convictions as aggravating circumstances.' . . . . We reject [the defendant's] contention that his history of criminal behavior should be considered a mitigating circumstance") (citing *Carlson v. State*, 716 N.E.2d 469 (Ind. Ct. App. 1999)).

Grossman further states "he had family support to assist him in obtaining counseling." *Appellant's Brief* at 4-5. Grossman, however, fails even to state that such is

a mitigating circumstance, argue why it constitutes a mitigating circumstance, demonstrate how the trial court erred by not granting it mitigating weight, or cite authority in support of the proposition. In light of these failures, we decline to give Grossman's family support significant mitigating weight. In sum, the atrocious nature of the offense and Grossman's character justify his sentence.

Judgment affirmed.

KIRSCH, C.J., and RILEY, J., concur.